

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ALEXANDER D. MIRZAOFF and THADDEUS F. PAWLICKI

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Appeal No. 1999-2022  
Application No. 08/963,987

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ON BRIEF

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Before LALL, DIXON, and GROSS, Administrative Patent Judges.  
LALL, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-3, 5-8, 12 and 14-18. Claims 4, 9-11, 13 and 19-21 have been canceled.

The disclosed invention is directed to a method and system for assessing the condition of a document as represented by a document image produced by a high speed document scanner to determine whether the document image is suitable for further processing. First, criteria for assessing the document image

are established and adjusted. Next, a plurality of document image attributes related to the geometrical integrity of the document image, the condition of the document image, and the condition of the text

in the document image, that support the selected criteria are selected. Then, a plurality of threshold values corresponding to the selected attributes are selected. The document image is then processed to obtain values for the selected attributes. Finally, the value of each of the obtained values for the selected attributes is compared against the threshold value selected

for the obtained attribute to determine a difference for each and then the differences are evaluated using the predetermined criteria to provide evaluation results of the document image.

Claim 1 is reproduced below and is illustrative of the invention.

1. A method for assessing the condition of a document as represented by a document image produced by a high speed document scanner to determine whether the document image is suitable for further processing, the method comprising the steps of:

establishing and adjusting criteria for assessing the document image;

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selecting a plurality of document image attributes related to the geometrical integrity of the document image, the condition of the document image, and the condition of the text in the document image, that support the selected criteria;

selecting a plurality of threshold values corresponding to the selected attributes;

processing the document image to obtain values for the selected attributes; and

comparing the value of each of the obtained values for the selected attributes against the threshold value selected for the obtained attribute to determine a difference for each and then evaluating the differences using the predetermined criteria to provide evaluation results of the document image.

The Examiner relies on the following references:

Miyagawa et al. (Miyagawa)	4,545,070	Oct. 1, 1985
Lee	5,054,098	Oct. 1, 1991
Tan	5,081,690	Jan. 14, 1992

Claims 1-3, 12 and 14-18 stand rejected under 35 U.S.C. § 103 over Tan and Lee. Claims 5-8 stand rejected over Tan, Lee and Miyagawa.

Rather than repeat the arguments of Appellants and the Examiner, we make reference to the brief and the answer for their respective details thereof.

#### OPINION

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We have considered the rejections advanced by the Examiner and the supporting arguments. We have, likewise, reviewed the Appellants' arguments set forth in the brief.

We reverse.

In our analysis, we are guided by the general proposition that in an appeal involving a rejection under 35 U.S.C. § 103, an examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). We are further guided by the precedent of our reviewing court that the limitations from the disclosure are not to be imported into the claims. In re Lundberg, 244 F.2d 543, 113 USPQ 530 (CCPA 1957);

In re Queener, 796 F.2d 461, 230 USPQ 438 (Fed. Cir. 1986). We also note that the arguments not made separately for any individual claim or claims are considered waived. See 37 CFR § 1.192(a) and (c). In re Baxter Travenol Labs., 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobviousness distinctions over the prior art."); In re Wiechert, 370 F.2d 927, 936, 152 USPQ 247, 254 (CCPA 1967) ("This court has uniformly followed the sound rule that an issue raised below which is not argued in that court, even if it has been properly brought here by reason of appeal is regarded as abandoned and will not be considered. It is our function as a court to decide disputed issues, not to create them.").

#### ANALYSIS

At the outset, we note that Appellants have elected to have these claims stand or fall together, see brief at page 2. We, however, consider the rejections under the various combinations below.

Tan and Lee

On pages 3 and 4 of the final rejection, the Examiner states that Tan shows everything except that it "does not select the attribute related to the geometrical integrity of the document image." For that, the Examiner relies on Lee. The Examiner concludes, id. at 4, that "it would have been obvious ... that Tan can select the attribute related to rectangularity of the document image as taught by Lee because their inventions both relate to the method of processing a document image and the combined system would efficiently improve the method." Appellants argue, brief at page 3, that "[e]ven if the teachings of Tan and Lee are combined ..., the result would be an optical character recognition system that preprocesses the document image to remove document skew, not a system that assesses the condition of a document image to determine whether the document image is suitable for further processing." Our own study of the Tan and the Lee references shows that they are not directed to assessing the condition of the image of the document before any specific corrections are made. Tan

is directed to row - by - row segmentation of a document and controlling the optical character recognition. In other words, Tan directly begins the process of character recognition of the document image line by line and corrects for the proper image of the selected segment of the document. Tan does not evaluate the condition of the document before going into the line by line evaluation of the image of the segment of the document.

Similarly, Lee is directed to the evaluation of the geometric lines of the document image and is not directed to the assessing of the image of a document before going into the document itself. Therefore, we are in agreement with Appellants that the combination of Tan and Lee does not meet the recited limitations of claim 1. The corresponding apparatus claim, the other independent claim 16, also contains limitations similar to those contained in claim 1. Therefore, the combination of Tan and Lee also does not meet the recited limitations in claim 16. We consequently do not sustain the obviousness rejection of claims 1-3, 12 and 14-18 over Tan and Lee.

Tan, Lee and Miyagawa

The Examiner rejects claims 5-8 over this combination at

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page 5 of the final rejection. However, since Miyagawa does not cure the deficiency noted above regarding claim 1, and claims 5 to 8 depend on claim 1, we, for the same rationale, do not sustain the rejection of claims 5-8 over Tan, Lee and Miyagawa.

In conclusion, we have not sustained the rejection under 35 U.S.C. § 103 of claims 1-3, 12 and 14-18, over Tan and Lee, and claims 5-8 over Tan, Lee and Miyagawa.



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The decision of the Examiner rejecting claims 1-3, 5-8, 12  
and 14-18, under 35 U.S.C. § 103 is reversed.

REVERSED

PARSHOTAM S. LALL	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	BOARD OF PATENT
JOSEPH L. DIXON	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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	)	
ANITA PELLMAN GROSS	)	
Administrative Patent Judge	)	

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THOMAS J. CLOSE  
PATENT LEGAL STAFF  
EASTMAN KODAK COMPANY  
343 STATE STREET  
ROCHESTER, NY 14650-2201